

Am



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/774,311	01/31/2001	Stuart Jay Golin	3	2514

7590 04/21/2004

THOMAS STAFFORD  
PATENT ATTORNEY  
4173 Rotherham Court  
Palm Harbor, FL 34685

EXAMINER

REKSTAD, ERICK J

ART UNIT	PAPER NUMBER
----------	--------------

2613

DATE MAILED: 04/21/2004

2

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/774,311

Applicant(s)

GOLIN, STUART JAY

Examiner

Erick Rekstad

Art Unit

2613

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 31 January 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☒ Claim(s) 5,7,8,10,15,17 and 18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 3-10 and 13-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

[claims 3 and 4]

The term "substantially" in claims 3 and 4 is a relative term which renders the claim indefinite. The term "substantially" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. The use of "substantially" before "on time" provides a range that could be any amount of time and is therefore clearly indefinite.

[claims 6 and 9]

Claim 6 recites the limitation "has ended early relative to an expected time" in line 6. There is insufficient antecedent basis for this limitation in the claim. Claim 3 states the detector merely detects if the picture ended on time not if it ended early.

Claim 9 recites the limitation "will end late" in line 4. There is insufficient antecedent basis for this limitation in the claim. Claim 3 states the detector merely detects if the picture ended on time not if it will end late.

[claims 13 and 14]

Art Unit: 2613

The term "substantially" in claims 13 and 14 is a relative term which renders the claim indefinite. The term "substantially" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. The use of "substantially" before "on time" provides a range that could be any amount of time and is therefore clearly indefinite.

[claim 16]

Claim 16 recites the limitation "has ended early relative to an expected time" in lines 6 and 7. There is insufficient antecedent basis for this limitation in the claim. Claim 13 states the "step of determining" merely indicates if the picture ended on time not if it ended early.

Claim 16 recites the limitation "detector" in line 6. There is insufficient antecedent basis for this limitation in the claim. Claims 11, 12, 13 and 15 do not contain a "detector".

[claim 19]

Claim 19 recites the limitation "will end late" in line 5. There is insufficient antecedent basis for this limitation in the claim. Claim 13 states the "step of determining" merely indicates if the picture ended on time not if it will end late.

[claim 20]

Claim 20 recites the limitation "detector" in line 3. There is insufficient antecedent basis for this limitation in the claim. Claims 11, 12, 13 and 19 do not contain a "detector".

Art Unit: 2613

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 11 and 12 rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 6,459,811 to Hurst, Jr. in view of US Patent 5,652,627 to Allen.

[claims 1 and 11]

Hurst suggests an apparatus for use in an encoder to ensure integrity of a hypothetical decoder buffer of a video buffer verifier (Col 4 Lines 16-44). The apparatus contains an encoder buffer (VBV buffer, Col 4 Line 21). Hurst describes the VBV as containing the means to control the transmission based on the representation of a prescribed number of bits (Col 4 Lines 30-36). Hurst further describes the VBV calculating a representation of the prescribed number of bits in accordance with a prescribed relationship dependent on said encoder buffer bit content and an end of picture indication (Col 3 Lines 17-40 and Col 4 Lines 30-44). Allen shows the calculation for a standard VBV in Figure 1 (Col 4 Lines 34-67). The end of picture indication is the DTS, which is the time the frame is required to be decoded (Col 3 Lines 36-57). It would have been obvious to one of ordinary skill in the art at the time of the invention that the VBV well known in the prior art contains a buffer, transmission controller, and a calculator as required by claim 1. It would have been obvious to one of

Art Unit: 2613

ordinary skill in the art at the time of the invention that the VBV well known in the prior art contains the method of claim 11.

[claims 2 and 12]

As shown by Allen in Figure 1, the transmission of bits is controllably inhibited for each transmission to the decoder. The buffer transmits only the data for frame 1 at time 44 and only data for frame 2 at time 46 even though there is more data in the buffer (Col 4 Lines 34-67). It would have been obvious to one of ordinary skill in the art at the time of the invention that the transmission of bits is controlled.

#### ***Allowable Subject Matter***

Claims 5, 7, 8, 10, 15, 17 and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US Patent 5,793,436 to Kim.

US Patent 5,461,420 to Yonemitsu et al.

US Patent 6,044,396 to Adams.

US Patent 6,212,233 to Alexandre et al.

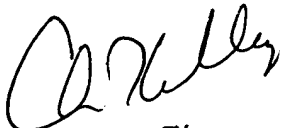
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Erick Rekstad whose telephone number is 703-305-5543. The examiner can normally be reached on 8-5.

Art Unit: 2613

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on 703-305-4856. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Erick Rekstad  
Examiner  
AU 2613  
(703) 305-5543  
[erick.rekstad@uspto.gov](mailto:erick.rekstad@uspto.gov)

  
CHRIS KELLEY  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600